

State of Hawai'i  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Papahānaumokuākea Marine National Monument  
Honolulu, Hawai'i 96813

September 23, 2016

Board of Land and Natural Resources  
Honolulu, Hawai'i

Request for Authorization and Delegation to the Chairperson to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to the Army Corps of Engineers, U.S. Coast Guard, Element Environmental, and/or a Salvage Company (TBD) for Access to State Waters to conduct salvage activities at Kure Atoll.

The Papahānaumokuākea Marine National Monument program hereby submits a request for your authorization and approval for issuance of a Papahānaumokuākea Marine National Monument conservation and management permit to the Monument Co-Trustee representatives of the U.S. Department of the Interior, U.S. Fish and Wildlife Service; National Oceanic and Atmospheric Administration, U.S. Department of Commerce (NOAA); State of Hawai'i Department of Land and Natural Resources (DLNR), pursuant to § 187A-6, Hawai'i Revised Statutes (HRS), Hawai'i Revised Statutes (HRS); §§ 13-60.5-5 & 13-60.5-6, Hawai'i Administrative Rules (HAR); and §§ 13-126-9 & 13-126-10, HAR, and all other applicable laws and regulations.

The conservation and management permit, as described below, would allow entry and management activities to occur in Papahānaumokuākea Marine National Monument (Monument), including the NWHI State Marine Refuge and the waters (0-3 nautical miles) surrounding the following sites:

- Midway Atoll
- Kure Atoll

The activities covered under this permit would occur from September 23, 2016 through November 1, 2016.

#### INTENDED ACTIVITIES

The applicants propose to salvage equipment and materials that were deposited into the lagoon at Kure Atoll when a landing craft capsized on September 2, 2016 demobilizing from a remediation activity on Green Island. See attachment 1- DOFAW field report, which characterizes the incident.

These ancillary response activities are being requested in order to fulfill duties by those responsible for the incident. The salvage will remove equipment (excavator, roll of metal fencing, and broken metal and glass pieces of the landing craft) that lay at the bottom of the lagoon at Kure Atoll. The excavator has fuel and hydraulic fluid that is already slowly, or has

the potential, for leaking into the environment. Such substances are well known to cause damage to marine resources. If the metal material (fence and piece of landing craft) remained for any length of time, it would be expected to cause algal blooms which damage resource integrity.

The State of Hawaii Division of Aquatic Resources is requiring that a professional salvage company be utilized for the salvage operation. The salvage operation would be closely monitored in the field by designated agency staff.

Permitting these salvage activities proposed by the applicants is directly supported by the Monument Management Plan, as described in the priority management need 3.3.4 Emergency Response and Natural Resource Damage Assessment Action which states,

*“While Monument and State regulations regulate access, they also provide a general exemption for activities necessary to respond to emergencies. The general exemption for emergencies allows for individuals responding to emergencies threatening life, property, or the environment to conduct necessary activities without the need for a permit. The general exemption applies only to the emergency response activity itself and not to the ancillary activities, such as training for emergency response, salvage operations, remediation, or restoration. These ancillary actions also require a timely response and would be covered under the appropriate agency’s conservation and management permit.”*

Due to safe weather windows timeframes, transit logistics to the project site and the BLNR schedule, PMNM staff is requesting that the BLNR authorize this permit prior to the salvage plan’s final approval by the stakeholder group and delegate final approval to the Chairperson. Such approvals would allow for the greatest logistical flexibility while providing the highest level of oversight to the salvage plan and final permit.

### REVIEW PROCESS

The Army Corps of Engineers (Corps) has convened and coordinated weekly stakeholder discussions since the incident occurred. Aside from the Corps, the stakeholders include the following scientific and cultural entities: U.S. Coast Guard, Hawai‘i Division of Aquatic Resources, Hawai‘i Division of Forestry and Wildlife, Papahānaumokuākea Marine National Monument (NOAA/NOS), NOAA Pacific Islands Regional Office (NOAA-PIRO), United States Fish and Wildlife Service Hawaiian and Pacific Islands National Wildlife Refuge Complex Office, and the Office of Hawaiian Affairs (OHA). The stakeholders will be reviewing and approving the salvage plan. The attached application will be updated to include the methods outlined in the approved plan. In addition, the permit application will be posted on the Monument Web site to provide the public another opportunity to provide comment.

### **Comments received from the scientific community are summarized as follows:**

Scientific reviews support the acceptance of this application. Concerns and comments are being integrated into the salvage plan. A draft of the plan is not yet available, but will be prior to permit issuance.

### **Comments received from the Native Hawaiian community are summarized as follows:**

Cultural reviews support the acceptance of this application. No concerns were raised.

**Comments received from the public are summarized as follows:**

No comments were received from the public on this application.

**Additional reviews and permit history:**

Are there other relevant/necessary permits or environmental reviews that have or will be issued with regard to this project? (e.g. MMPA, ESA, EA)      Yes ☒      No ☐

If so, please list or explain:

- The proposed activities are in compliance with HRS chapter 343. The Final Environmental Assessment covering the subject activity was published in OEQC's The Environmental Notice on December 23, 2008 with a finding of no significant impact (FONSI).
- The Department has made an exemption determination for this permit in accordance chapter 343, HRS, and Chapter 11-200, HAR. See Attachment ("DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT UNDER THE AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200 HAR, FOR PAPAĀNAUMOKUĀKEA MARINE NATIONAL MONUMENT CONSERVATION AND MANAGEMENT PERMIT TO USCG, ACE, EE, AND A PROFESSIONAL SALVAGE COMPANY FOR ACCESS TO STATE WATERS TO CONDUCT SALVAGE ACTIVITIES UNDER PERMIT PMNM-2016-027")
- The U.S. Army Corps of Engineers is requiring/processing a nationwide salvage permit for this action

Has Applicant been granted a permit from the State in the past? Yes ☒      No ☐

If so, please summarize past permits:

- The applicants were granted access to PMNM via the PMNM-2016-001 permit in the past eight years for the purpose of managing the Monument.

Have there been any    a) violations:      Yes ☐      No ☒  
   b) Late/incomplete post-activity reports:    Yes ☐      No ☒

Are there any other relevant concerns from previous permits?      Yes ☒      No ☐

Field reports indicate that there may have been a lack of compliance both with the State rules and PMNM best management practices on this most recent access trip by Element Environmental. The state is looking into the matters noted.

**STAFF OPINION**

Department staff is of the opinion that Applicants have properly demonstrated valid justifications for their application and that they and their staff should be allowed to enter the NWHI State waters and to conduct the activities therein as specified in the application and related salvage plan with certain special instructions and conditions, which are in addition to the Papahānaumokuākea Marine National Monument Conservation and Management Permit General Conditions. All suggested special conditions have been vetted through the legal counsel of the Co-Trustee agencies (see Recommendation section).

#### MONUMENT MANAGEMENT BOARD OPINION

AT the time of the writing of this submittal, the MMB, though aware of the salvage effort, had not had the opportunity to endorse this application. A verbal status update will be provided the day of the BLNR hearing.

RECOMMENDATION

That the Board authorize and approve a Conservation and Management Permit with language consistent with the 2015 permit to Monument Co-Trustee Representatives U.S. Fish and Wildlife Service; National Oceanic and Atmospheric Administration; and State of Hawai'i, Department of Land and Natural Resources, with the following special conditions:

1. That the Board declare that the actions which are anticipated to be undertaken under this permit will have little or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Upon the finding and adoption of the department's analysis by the Board, that the Board delegate and authorize the Chairperson to sign the declaration of exemption for purposes of recordkeeping requirements of chapter 343, HRS, and chapter 11-200, HAR.
3. That the permittee provide, to the best extant possible, a summary of their Monument access, including but not limited to, any initial findings to the DLNR for use at educational institutions and outreach events.
4. This permit is not to be used for nor does it authorize the sale of collected organisms. Under this permit, the authorized activities must be for noncommercial purposes not involving the use or sale of any organism, by-products, or materials collected within the Monument for obtaining patent or intellectual property rights.
5. The permittee may not convey, transfer, or distribute, in any fashion (including, but not limited to, selling, trading, giving, or loaning) any coral, live rock, or organism collected under this permit without the express written permission of the Co-Trustees.
6. To prevent introduction of disease or the unintended transport of live organisms, the permittee must comply with the disease and transport protocol attached to this permit.
7. Tenders and small vessels must be equipped with engines that meet EPA emissions requirements.
8. Refueling of tenders and all small vessels must be done at the support ships and outside the confines of lagoons or near-shore waters in the State Marine Refuge.
9. No fishing is allowed in State Waters except as authorized under State law for subsistence, traditional and customary practices by Native Hawaiians.

Respectfully submitted,

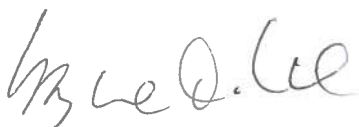


Maria Carnevale

Papahānaumokuākea Marine National Monument



APPROVED FOR SUBMITTAL



Suzanne Case  
Chairperson



**Report by DLNR-DOFAW Kure Atoll Field Staff**  
**Matthew Saunter—Summer '16 Field Camp Leader**  
**Cynthia Vanderlip—Kure Field Station Program Supervisor**

**Background**

The U.S. Coast Guard Civil Engineering Unit Alaska and their contractor Environmental Elemental, LLC (located in Hawaii) are excavated 400-600 cubic yards of contaminated PCB soil from the landfill and reburied it in a more secure location on Green Island. Upon departing Green Island Environmental Elemental's 33' LCM capsized.

**Details of Events**

**Aug 19** – arrival Environmental Elemental's LCM and Kahana Alewa LCM transferred a total of 24 loads (completed on Aug 20).

**Aug 20 to Aug 30** - USCG and E2 conduct PCB remediation activities

**Sep 1** – Environmental Elemental's LCM motors out of lagoon with first load prior to making contact with Kahana and Mario suggests they turn around due to poor conditions. The LCM met the Kahana on the South side of atoll and is able to transfer load. Captain Mario refuses to put their LCM Alewa in the water and will only accept loads in lee of the island (NE). Operations are put on hold until that afternoon. USCG is able to conduct 2 more transfers as tide is going high. Karen and Noah were embarked.

**Sep 2** – USCG LCM conducts ~8 more loads successfully. LCM capsizes at about 1715 on last load ~440m offshore in about 10-12' of water off of Green Island Sector 7 with excavator a roll of chain-link fencing, miscellaneous equipment and 9 crew onboard. DLNR staff immediately notified the Kahana after the incident and began to ready the State twin-vee for emergency response. The Kahana also began mobilizing their LCM. The State twin-vee was able to respond within ~20 minutes. Tony was thought to be in the greatest need of medical attention so he and Troy were removed from the site and transferred to the beach. Medical supplies that were already floating away from site were picked up en route to beach. Troy and Tony were dropped off on beach where Andy was posted. The State twin-vee made it back out to the capsized boat and the Alewa arrived shortly after at 1750. The Alewa removed the remainder of people from the site and dropped them off on the beach and began attempting to flip the capsized LCM back over. The State twin-vee proceeded to collect as many floating objects as possible. At about 1840 the Kahana decided to leave the capsized LCM anchored, collect all personnel and begin their transit to Midway.

**Sept 3** – Kahana returns at ~1630 with rat eradication supplies from Midway and continues to work on righting the Environmental Elemental LCM. The State twin-vee is deployed to monitor activities. The Environmental Elemental LCM is successfully recovered at 1840 and again the State twin-vee is used to retrieve floating debris. The LCM is towed to shore in order to secure the ramp. The LCM

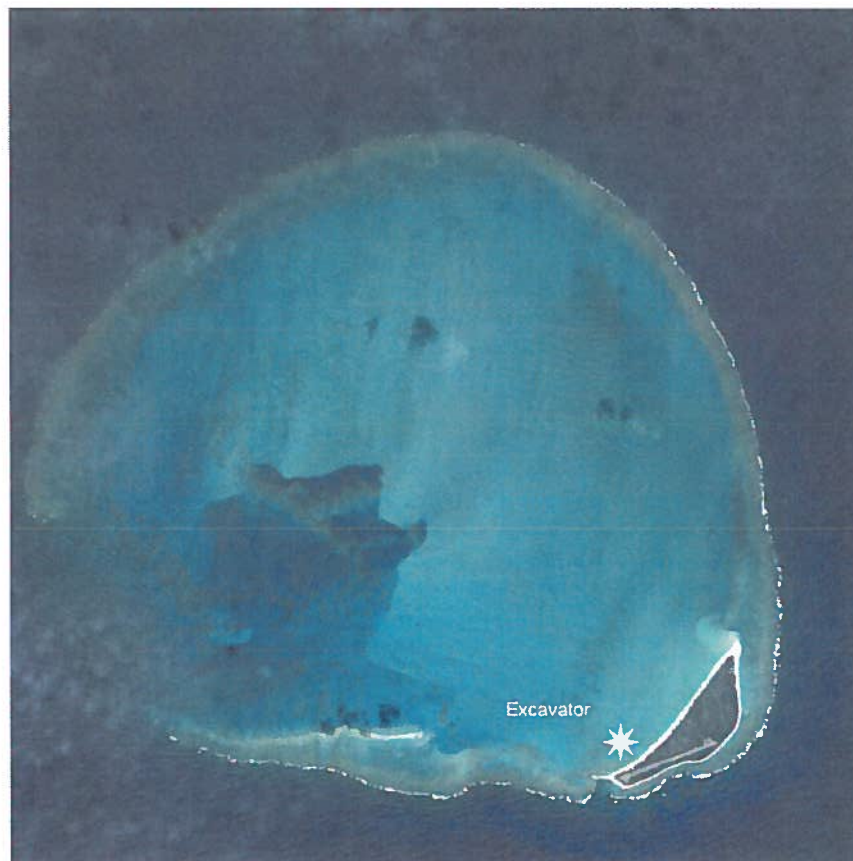
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Division of Forestry and Wildlife  
Kure Atoll Wildlife Sanctuary



was then towed behind the Alewa back out to the Kahana. DLNR personnel documented capsize site with photos, GPS waypoints and a buoy. Loose items and entanglements were removed and a diesel leak was documented coming out of the excavator.

**Sept 8** Kahana arrives back in Honolulu

**Sept 10** – Kure DLNR staff revisit the wreck sight and retrieve a towel, some AA batteries, a 1200yd spool of monofilament that was strewn along the lagoon floor, and a pack of fishing hooks.



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Excavator in 10' of water.

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32' Aleve (owned by P & R Taxi) assisting with righting Environmental Elemental's 33' LCM. DLNR DOFAW vessel in the foreground.

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Environmental Elemental personnel loading the Excavator just before it capsized.

**Papahānaumokuākea Marine National Monument**  
**CONSERVATION AND MANAGEMENT Permit Application**

**NOTE: *This Permit Application (and associated Instructions) is to propose activities to be conducted in the Papahānaumokuākea Marine National Monument. The Co-Trustees are required to determine that issuing the requested permit is compatible with the findings of Presidential Proclamation 8031. Within this Application, provide all information that you believe will assist the Co-Trustees in determining how your proposed activities are compatible with the conservation and management of the natural, historic, and cultural resources of the Papahānaumokuākea Marine National Monument (Monument).***

**ADDITIONAL IMPORTANT INFORMATION:**

- Any or all of the information within this application may be posted to the Monument website informing the public on projects proposed to occur in the Monument.
- In addition to the permit application, the Applicant must either download the Monument Compliance Information Sheet from the Monument website OR request a hard copy from the Monument Permit Coordinator (contact information below). The Monument Compliance Information Sheet must be submitted to the Monument Permit Coordinator after initial application consultation.
- Issuance of a Monument permit is dependent upon the completion and review of the application and Compliance Information Sheet.

**INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED**

Send Permit Applications to:

NOAA/Daniel K. Inouye Regional Center

NOS/ONMS/Papahānaumokuākea Marine National Monument

Attention: Permit Coordinator

1845 Wasp Blvd., Building 176

Honolulu, HI 96818

nwhipermi@noaa.gov

PHONE: (808) 725-5800 FAX: (808) 455-3093

**SUBMITTAL VIA ELECTRONIC MAIL IS PREFERRED BUT NOT REQUIRED. FOR ADDITIONAL SUBMITTAL INSTRUCTIONS, SEE THE LAST PAGE.**

**Papahānaumokuākea Marine National Monument  
Permit Application Cover Sheet**

This Permit Application Cover Sheet is intended to provide summary information and status to the public on permit applications for activities proposed to be conducted in the Papahānaumokuākea Marine National Monument. While a permit application has been received, it has not been fully reviewed nor approved by the Monument Management Board to date. The Monument permit process also ensures that all environmental reviews are conducted prior to the issuance of a Monument permit.

**Summary Information**

**Applicant Name:** TBD

**Affiliation:** Any of the following; U.S. Army Corps of Engineers, U.S. Coast Guard, Element Environmental, or salvage company-TBD

**Permit Category:** Conservation and Management

**Proposed Activity Dates:** September 23, 2016 – November 1, 2016

**Proposed Method of Entry (Vessel/Plane):** Vessel and plane

**Proposed Locations:** Midway and Kure Atolls

This permit application encompasses all conservation and management activities that the Co-Trustee representatives may conduct throughout the entire Monument.

**Estimated number of individuals (including Applicant) to be covered under this permit:**  
TBD, based on operations and agency field representation.

**Estimated number of days in the Monument:** 14 days

**Description of proposed activities:** (complete these sentences):

**a.) The proposed activity would...**

Salvage equipment and material from the Northwestern Hawaiian Islands State Marine Refuge deposited as a result of a marine incident.

**b.) To accomplish this activity we would ....**

The salvage plan is forthcoming and will be reviewed and approved by all affected agencies.

**c.) This activity would help the Monument by ...**

These activities would benefit the Monument by removing materials that if left over time could pose a threat to monument resources.

**Other information or background:**

Final detail will be available in the approved salvage plan

## **Section A - Applicant Information**

### **1. Applicant (any of the following)**

TBD. U.S. Army Corps of Engineers (ACE)

TBD. U.S. Coast Guard (USCG)

TBD. Element Environmental (E2)

TBD. Professional Salvage Company

### **1a. Intended field Principal Investigator (See instructions for more information):**

N/A

### **2. Mailing address (street/P.O. box, city, state, country, zip):**

ACE:

PO Box 6898

JBER, AK 99506-0898

USCG:

SILC Environmental Management Division

1301 Clay Street, Suite 700N

Oakland, CA 94612

E2:

98-030 Hekaha St #9

Aiea, HI 96701

Salvage Company, TBD

### **Phone:**

ACE: 907-753-5771

USCG: (510) 637-5522

E2: 808.488.1200

Salvage Company, TBD

**Fax:**

ACE: 907-753-2829

USCG: N/A

E2: 808.488.1300

Salvage Company, TBD

**Email:** TBD, based on Agency individuals identified

**For students, major professor's name, telephone and email address:** N/A

**3. Affiliation (institution/agency/organization directly related to the proposed project):**

**4. Additional persons to be covered by permit. List all personnel roles and names (if known at time of application) here (e.g. John Doe, Research Diver; Jane Doe, Field Technician):**

The applicants shall ensure that all personnel assigned to this conservation and management activity allowed under this permit are qualified to perform in the assigned role and are limited to the scope of their position and respective project, and shall comply with all other applicable laws, policies, protocols, permits, and regulations. In addition, the applicants will ensure that all management activities are communicated and coordinated on an ongoing and regular basis.

To safeguard all the resources and ecological integrity of the Monument, early and ongoing coordination of interagency activities will occur between the action agency and interested Monument partners as soon as details of activities are identified. The goal of early coordination is the commitment to identifying, incorporating, and customizing best management practices for specific activities. Additionally, pre-access permit and cultural briefings will be conducted and MMB agency oversight of field operation.

**Section B: Project Information**

**5a. Project location(s):**

<input type="checkbox"/> Nihoa Island	<input type="checkbox"/> Land-based	<input type="checkbox"/> Shallow water	<input type="checkbox"/> Deep water
<input type="checkbox"/> Necker Island (Mokumanamana)	<input type="checkbox"/> Land-based	<input type="checkbox"/> Shallow water	<input type="checkbox"/> Deep water
<input type="checkbox"/> French Frigate Shoals	<input type="checkbox"/> Land-based	<input type="checkbox"/> Shallow water	<input type="checkbox"/> Deep water
<input type="checkbox"/> Gardner Pinnacles	<input type="checkbox"/> Land-based	<input type="checkbox"/> Shallow water	<input type="checkbox"/> Deep water
<input type="checkbox"/> Maro Reef			
<input type="checkbox"/> Laysan Island	<input type="checkbox"/> Land-based	<input type="checkbox"/> Shallow water	<input type="checkbox"/> Deep water
<input type="checkbox"/> Lisianski Island, Neva Shoal	<input type="checkbox"/> Land-based	<input type="checkbox"/> Shallow water	<input type="checkbox"/> Deep water
<input type="checkbox"/> Pearl and Hermes Atoll	<input type="checkbox"/> Land-based	<input type="checkbox"/> Shallow water	<input type="checkbox"/> Deep water
<input checked="" type="checkbox"/> Midway Atoll	<input checked="" type="checkbox"/> Land-based	<input checked="" type="checkbox"/> Shallow water	<input checked="" type="checkbox"/> Deep water
<input checked="" type="checkbox"/> Kure Atoll	<input checked="" type="checkbox"/> Land-based	<input checked="" type="checkbox"/> Shallow water	<input checked="" type="checkbox"/> Deep water
<input type="checkbox"/> Other			

**Ocean Based**

NOTE: There is a fee schedule for people visiting Midway Atoll National Wildlife Refuge via vessel and aircraft.

Location Description:

This activity would occur at Kure Atoll. Midway Atoll may be visited via plane as transportation/logistical plans dictate.

**5b. Check all applicable regulated activities proposed to be conducted in the Monument:**

- ☒ Removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging any living or nonliving Monument resource
- ☒ Drilling into, dredging, or otherwise altering the submerged lands other than by anchoring a vessel; or constructing, placing, or abandoning any structure, material, or other matter on the submerged lands
- ☒ Anchoring a vessel
- ☐ Deserting a vessel aground, at anchor, or adrift
- ☒ Discharging or depositing any material or matter into the Monument
- ☒ Touching coral, living or dead
- ☐ Possessing fishing gear except when stowed and not available for immediate use during passage without interruption through the Monument
- ☐ Attracting any living Monument resource
- ☐ Sustenance fishing (Federal waters only, outside of Special Preservation Areas, Ecological Reserves and Special Management Areas)
- ☐ Subsistence fishing (State waters only)
- ☒ Swimming, snorkeling, or closed or open circuit SCUBA diving within any Special Preservation Area or Midway Atoll Special Management Area

**6. Purpose/Need/Scope *State purpose of proposed activities:***

Due to a recent marine vessel incident that deposited material into the waters of Kure Atoll, the applicants propose salvage activities that constitute management activities for the conservation and management of Papahānaumokuākea Marine National Monument as follows:

- a) Remove marine debris, trash, and other materials (land and ocean-based) that pose threats to Monument resources, including but not limited to derelict fishing gear.  
Activities may include:
  - i. Location and removal of debris and hazardous materials. This may be through interagency agreements, such as the Department of Defense (DOD) Innovative Readiness Training (IRT), Formerly Used Defense Sites (FUDS), or the Base Realignment and Closure (BRAC) Programs. Efforts may include activities such as seafloor and island mapping, reconnaissance and removal of materials, and derelict vessel salvage and removal; and
  - ii. Removal of sessile encrusting flora and fauna associated with marine debris.
- b) Provide Emergency Response, Injury Assessment, Mitigation, Restoration, and Monitoring and Post-Response Management:
  - i. Activities as necessary for emergency response, injury assessment, mitigation, restoration, monitoring, and post-response management in coordination with appropriate federal and/or state resource agencies and as appropriate, consistent with NOAA, FWS and State of Hawaii Damage Assessment and Restoration regulations, policies, and procedures (e.g., oil spills, ship groundings, tsunami-generated marine debris, damage assessments, monitoring alien species, and monitoring coral bleaching events, collection of bleached coral or alien species.

The Applicants are working towards a final approved salvage plan with the responsible party (Element Environmental). The plan will be reviewed by all the project stakeholders (PMNM Management agencies are included in the review and approval). The plan will be conducted by a professional salvage company, TBD.

\*Considering the purpose of the proposed activities, do you intend to film / photograph federally protected species?    Yes ☐ No ☒

For a list of terrestrial species protected under the Endangered Species Act visit:  
<http://www.fws.gov/Endangered/>

For a list of marine species protected under the Endangered Species Act visit:  
<http://www.nmfs.noaa.gov/pr/species/esa/>

For information about species protected under the Marine Mammal Protection Act visit:  
<http://www.nmfs.noaa.gov/pr/laws/mmpa/>

**7. Answer the Findings below by providing information that you believe will assist the Co-Trustees in determining how your proposed activities are compatible with the conservation and management of the natural, historic, and cultural resources of the Monument:**

**a. How can the activity be conducted with adequate safeguards for the cultural, natural and historic resources and ecological integrity of the Monument?**

The conservation and management activities conducted by the permit applicants will be carried out with strict safeguards for the natural, cultural and historic resources of the Monument as required by Presidential Proclamation 8031, and other applicable law and agency policies and standard operating procedures. The team will have and follow field protocols and best management practices. These practices and procedures will minimize or eliminate disturbance to wildlife, flora, habitats, and cultural and historic resources. Long and short-term monitoring data is used to inform management and conservation actions to maintain the ecological, cultural and historic integrity of the Monument.

To safeguard all the resources and ecological integrity of the Monument, early and ongoing coordination of interagency activities will occur between the action agency and interested Monument partners as soon as details of activities are identified. The goal of early coordination is the commitment to identifying, incorporating, and customizing best management practices for specific activities.

Additionally, pre-access permit and cultural briefings will be conducted and PMNM agency oversight will be present during PMNM actions

**b. How will the activity be conducted in a manner compatible with the management direction of this proclamation, considering the extent to which the conduct of the activity may diminish or enhance Monument cultural, natural and historic resources, qualities, and ecological integrity, any indirect, secondary, or cumulative effects of the activity, and the duration of such effects?**

The activities requested are directed by Presidential Proclamation 8031 and other state and federal laws, regulations, and policies. The applicants will conduct their salvage activity with respect to and for the Monument's natural, historic and cultural resources, qualities, and ecological integrity and in a way that will not diminish and will likely enhance them. By conducting this activity, the removal of equipment and materials, the applicants will prevent any potential secondary damage to the resources of PMNM.

**c. Is there a practicable alternative to conducting the activity within the Monument? If not, explain why your activities must be conducted in the Monument.**

No. Unfortunately the materials and equipment were deposited within the lagoon at Kure Atoll and the applicants will need access to PMNM in order to conduct the salvage.

**d. How does the end value of the activity outweigh its adverse impacts on Monument cultural, natural and historic resources, qualities, and ecological integrity?**

By conducting this activity, the applicants will remove equipment and materials that pose a threat over time to the resources of PMNM. Any short term adverse impact will have a long term beneficial impact on the resources at the Atoll.

**e. Explain how the duration of the activity is no longer than necessary to achieve its stated purpose.**

All conservation and management activities conducted by the permit applicants are conducted in the shortest possible window to prevent or eliminate disturbance to the natural, historic and cultural resources of the Monument. This salvage is estimated to take 2 weeks.

**f. Provide information demonstrating that you are qualified to conduct and complete the activity and mitigate any potential impacts resulting from its conduct.**

These agency applicants and staff possess high levels of expertise regarding this activity. A professional salvage company will be involved in the salvage operation whose involvement will be reviewed prior by state and federal PMNM staff. These experts provide their knowledge and recommendations in all management decisions so that all impacts are minimized and mitigated if necessary.

**g. Provide information demonstrating that you have adequate financial resources available to conduct and complete the activity and mitigate any potential impacts resulting from its conduct.**

The Agency applicants and contractors have adequate financial resources available to conduct the proposed management activities.

**h. Explain how your methods and procedures are appropriate to achieve the proposed activity's goals in relation to their impacts to Monument cultural, natural and historic resources, qualities, and ecological integrity.**

The methods and procedures used in the salvage activity by the permit applicants are appropriate to achieve the proposed activity's goals. The activity will be reviewed/approved by all stakeholders inclusive of the PMNM management agencies. All activities proposed are required to protect the Monument natural, historic and cultural resources, qualities, and ecological integrity.

**i. Has your vessel been outfitted with a mobile transceiver unit approved by OLE and complies with the requirements of Presidential Proclamation 8031?**

All vessels used by the applicants that are not stationed in the Monument will be outfitted with a functional NOAA Office of Law Enforcement type-approved Vessel Monitoring System as required by 50 CFR Part 404.5 and stated in the Proclamation.

**j. Demonstrate that there are no other factors that would make the issuance of a permit for the activity inappropriate.**

There are no other factors that would make the issuance of a permit for the listed activities inappropriate.

### **8. Procedures/Methods:**

The above activities will be conducted by employees, contractors, and volunteers under the direction and control of the applicants in accordance with Presidential Proclamation 8031 and all other applicable laws and regulations.

The applicants will abide by the following policies and procedures, among others that may be developed, when operating in the Monument:

1. Disease and Introduced Species Prevention Protocols for Permitted Activities in the Marine Environment;
2. General Sampling and Transport Protocols for Collected Samples;
3. Voucher Specimen Guidelines;
4. Hull, tender vessel, ballast water, and gear inspections for alien species;
5. Rat-free inspections;
6. Precautions for Minimizing Human Impacts on Birds;
7. Best Management Practices for Boat Operations and Diving Activities;
8. Health and Safety Plans, and Emergency Response Plans;
9. All FWS refuge policies and procedures for conduct in the two wildlife refuges (Hawaiian Islands National Wildlife Refuge and Midway Atoll National Wildlife Refuge);
10. All policies and procedures for conduct in Northwestern Hawaiian Islands Hawaii State Marine Refuge and Kure Atoll State Seabird Sanctuary;
11. Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve Executive Orders;
12. Hawaii Administrative Rules, §13-60.5, the Hawaii Revised Statutes, § 187A-6; and
13. All other applicable state and federal laws and regulations.

**NOTE: If land or marine archeological activities are involved, contact the Monument Permit Coordinator at the address on the general application form before proceeding.**

### **9a. Collection of specimens - collecting activities (would apply to any activity): organisms or objects (List of species, if applicable, attach additional sheets if necessary):**

The following objects (no organisms) will be collected:

- Collection of excavator, pieces of the landing craft (metal frame/glass), roll of fencing, and any other misc. items that were deposited into the lagoon as a result of the LCM incident.

Common name:

Scientific name:

# & size of specimens:

Collection location:

☐ Whole Organism ☐ Partial Organism

**9b. What will be done with the specimens after the project has ended?**

N/A.

**9c. Will the organisms be kept alive after collection?** ☐ Yes ☐ No

• General site/location for collections:

• Is it an open or closed system? ☐ Open ☐ Closed

• Is there an outfall? ☐ Yes ☒ No

• Will these organisms be housed with other organisms? If so, what are the other organisms?

• Will organisms be released?

**10. If applicable, how will the collected samples or specimens be transported out of the Monument?**

N/A

**11. Describe collaborative activities to share samples, reduce duplicative sampling, or duplicative research:**

N/A

**12. List all specialized gear and materials to be used in this activity:**

All gear and materials necessary for the activities listed in the approved salvage plan. All gear and materials will be selected and treated according to invasive species and disease prevention protocols.

**13. List all Hazardous Materials you propose to take to and use within the Monument:**

All hazardous materials necessary for the activities will be listed in the approved salvage plan. All U.S. Department of Transportation safety measures will be followed for storage and transport of hazardous materials within the Monument.

**14. Describe any fixed installations and instrumentation proposed to be set in the Monument:**

N/A

**15. Provide a time line for sample analysis, data analysis, write-up and publication of information:**

N/A

**16. List all Applicant's publications directly related to the proposed project:**

N/A

With knowledge of the penalties for false or incomplete statements, as provided by 18 U.S.C. 1001, and for perjury, as provided by 18 U.S.C. 1621, I hereby certify to the best of my abilities under penalty of perjury of that the information I have provided on this application form is true and correct. I agree that the Co-Trustees may post this application in its entirety on the Internet. I understand that the Co-Trustees will consider deleting all information that I have identified as “confidential” prior to posting the application.

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TBN  
U.S. Coast Guard

Date

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TBN  
U.S. Army Corps of Engineers

Date

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TBN  
Element Environmental, LLC.

Date

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TBD  
Professional Salvage Company

Date

**SEND ONE SIGNED APPLICATION VIA MAIL TO THE MONUMENT OFFICE  
BELOW:**

Papahānaumokuākea Marine National Monument Permit Coordinator  
6600 Kalaniana'ole Hwy. # 300  
Honolulu, HI 96825  
FAX: (808) 397-2662

**DID YOU INCLUDE THESE?**

- ☐ Applicant CV/Resume/Biography  
☐ Intended field Principal Investigator CV/Resume/Biography

- ☐ Electronic and Hard Copy of Application with Signature
- ☐ Statement of information you wish to be kept confidential
- ☐ Material Safety Data Sheets for Hazardous Materials

DAVID Y. IGE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF AQUATIC RESOURCES  
1151 PUNCHBOWL STREET, ROOM 330  
HONOLULU, HAWAII 96813

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

JEFFREY PEARSON  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

September 23, 2016

TO: Division of Aquatic Resources File

THROUGH: Suzanne D. Case, Chairperson *hcl*

FROM: Maria Carnevale  
Papahānaumokuākea Marine National Monument

DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT UNDER THE AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200 HAR, FOR PAPAHĀNAUMOKUĀKEA MARINE NATIONAL MONUMENT CONSERVATION AND MANAGEMENT PERMIT TO DR. CHARLES LITTNAN, NOAA FISHERIES, PACIFIC ISLANDS FISHERIES SCIENCE CENTER, FOR ACCESS TO STATE WATERS TO CONDUCT SALVAGE ACTIVITIES AT KURE ATOLL UNDER PERMIT PMNM-2016-027.

The following permitted activities are found to be exempted from preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR:

Project Title:

Papahānaumokuākea Marine National Monument Conservation and Management Permit to US Army Corps of Engineers, U.S. Coast Guard, Element Environmental, and/or a professional salvage company (TBD) for Access to State Waters to Conduct Salvage Activities at Kure Atoll.

Permit Number: PMNM-2016-027

Project Description:

The Conservation and management activity would allow entry and activities to occur in Papahānaumokuākea Marine National Monument, including the NWHI State waters from September 23, 2016 through November 1, 2016.

The Applicants propose to conduct salvage operations in order to remove equipment and materials from the lagoon at Kure Atoll left when a landing craft capsized on September 2, 2016. A more detailed salvage plan is forthcoming and will be reviewed with intent to minimize any further damage to Monument resources.

Permitting such proposed activities are clearly outlined in the Monument Management Plan's Natural Resource Damage Assessment Action Plan (NRDA): *"While Monument and State regulations regulate access, they also provide a general exemption for activities necessary to respond to emergencies. The general exemption for emergencies allows for individuals responding to emergencies threatening life, property, or the environment to conduct necessary activities without the need for a permit. The general exemption applies only to the emergency response activity itself and not to the ancillary activities, such as training for emergency response, salvage operations, remediation, or restoration. These ancillary actions also require a timely response and would be covered under the appropriate agency's conservation and management permit."*(PMNM MMP Vol. 1, 2008, page 224).

In addition, such activities are addressed in the Monument Management Plan Environmental Assessment. This EA mentions that while emergency response and natural resource damage actions could have an immediate negative impact, Monument BMPS could help minimize such impact. The EA also goes on to say that appropriate response is anticipated to have long term beneficial effects to response and listed species in particular. (PMNM MMP Vol 2, p.179).

#### Consulted Parties:

The salvage plan and application will be sent out for review and comment to the following scientific and cultural entities: UA army Corps of Engineers, US Coast Guard, Hawai'i Division of Aquatic Resources, Hawai'i Division of Forestry and Wildlife, Papahānaumokuākea Marine National Monument (NOAA/NOS), NOAA Pacific Islands Regional Office (NOAA-PIRO), United States Fish and Wildlife Service Hawaiian and Pacific Islands National Wildlife Refuge Complex Office, the Office of Hawaiian Affairs (OHA), and the PMNM Cultural Working Group. The application will be posted within 40 days of its receipt, in accordance with the Monument's Public Notification Policy.

#### Exemption Determination:

After reviewing HAR § 11-200-8, including the criteria used to determine significance under HAR § 11-200-12, DLNR has concluded that the activities under this permit would have minimal or no significant effect on the environment and that issuance of the permit is categorically exempt from the requirement to prepare an environmental assessment based on the following analysis:

1. All activities associated with this permit, including deployment of an underwater camera, have been evaluated as a single action. As a preliminary matter, multiple or phased actions, such as when a group of actions are part of a larger undertaking, or when an individual project is precedent to or represents a commitment to a larger project, must be grouped together and evaluated as a single action. HAR § 11-200-7. This permit does not involve an activity that is precedent to a later planned activity.

2. The Exemption Class for Scientific Research with no Serious or Major Environmental Disturbance Appears to Apply. Chapter 343, HRS, and § 11-200-8, HAR, provide for a list of classes of actions exempt from environmental assessment requirements. HAR §11-200-8.A.5. exempts the class of actions which involve "basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major

disturbance to an environmental resource.” This activity falls within Exemption Class #1, Exempt Item #3 which allows “Removal of boulders, rocks, hazardous trees, marine debris, and other similar hazards necessary to maintain state lands and waters in a safe condition.” which is listed on the DEPARTMENT OF LAND & NATURAL RESOURCES, EXEMPTION LIST (June 5, 2015).

As discussed below, no significant disturbance to any environmental resource is anticipated in the salvage operation. Thus, so long as the below considerations are met, an exemption class should include the action now contemplated.

3. Cumulative Impacts of Actions in the Same Place and Impacts with Respect to the Potentially Particularly Sensitive Environment Will Not be Significant. Even where a categorical exemption appears to include a proposed action, the action cannot be declared exempt if “the cumulative impact of planned successive actions in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment.” HAR § 11-200-8.B. To gauge whether a significant impact or effect is probable, an exempting agency must consider every phase of a proposed action, any expected primary and secondary consequences, the long-term and short-term effects of the action, the overall and cumulative effect of the action, and the sum effects of an action on the quality of the environment. HAR § 11-200-12. Examples of actions which commonly have a significant effect on the environment are listed under HAR § 11-200-12.

Previous salvage operations have occurred to date in the PMNM and have had no deleterious effects on Monument resources. With this in mind, significant cumulative impacts are not anticipated as a result of this activity, and numerous safeguards further ensure that the potentially sensitive environment of the project area will not be significantly affected. All activities will be conducted in a manner compatible with the management direction of the Monument Proclamation in that the activities do not diminish monument resources, qualities, and ecological integrity, or have any indirect, secondary, cultural, or cumulative effects. The review process did not reveal any anticipated indirect or cumulative impacts, nor did it raise any cultural concerns, that would occur as a result of these activities.

The proposed project would be supported by either the Kahana, or a separate vessel. Other than the DLNR field activities at Kure Atoll, there will be no other concurrent activities that would pose a further impact to the resources. The culmination of all issues/active PMNM permits, and their disparate activities, occurring throughout the Monument, is not anticipated to have significant cumulative impacts.

Since no significant cumulative impacts or significant impacts with respect to any particularly sensitive aspect of the project area are anticipated, the categorical exemptions identified above should remain applicable.

4. Overall Impacts will Probably be Minimal and Insignificant Any foreseeable impacts from the proposed activity will probably be immediate, at the time of the salvage and minimal, and further mitigated by general and specific conditions attached to the permit. Specifically, all activities covered by this permit will be carried out with strict safeguards for the natural, historic,

and cultural resources of the Monument as required by Presidential Proclamation 8031, other applicable law and agency policies and standard operating procedures.

Conclusion. Upon consideration of the permit to be approved by the Board of Land and Natural Resources, the potential effects of the above listed project as provided by Chapter 343, HRS and Chapter 11-200 HAR, have been determined to be of probable minimal or no significant effect on the environment and exempt from the preparation of an environmental assessment.

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Suzanne D. Case  
Board of Land and Natural Resources

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Date